

VOLUME ONE

IN THE RECORDER'S COURT OF CHATHAM COUNTY
STATE OF GEORGIA

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| STATE OF GEORGIA |) | CITY DOCKET NUMBER: |
| |) | |
| vs. |) | 89-09-163 |
| |) | |
| TROY A. DAVIS, |) | CHARGE: MURDER |
| |) | |
| Defendant |) | |

Proceedings in the Recorder's Court of Chatham County, Georgia, on the 8th day of September, 1989, before the Honorable Lionel E. Drew, Jr., Judge, reported by Edmund W. Ruchalski, Certified Court Reporter, B-538.

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18 * * * *

1 THE COURT: Be seated, please. All right. Now, let me make one
2 thing clear and I want you spectators to listen to me very
3 carefully. In this country an individual who is charged
4 with a crime, no matter how horrible or revolting it may
5 appear to us, is entitled to a fair and impartial hearing,
6 and that is what this defendant is going to get in this
7 courtroom. You have all been very carefully screened
8 before you came in here. We have tried to impose appro-
9 priate security measures, with the assistance of the
10 sheriff's department, and we're going to operate this
11 thing in a calm and businesslike manner. If anybody causes
12 any problems, commotion, or disturbance, they're going to
13 be removed from the courtroom, either through that door or
14 this door, depending on how unruly they may become. If you
15 want to leave the courtroom for any reason during the hear-
16 ing, feel free to do so, but do it in a quiet, orderly
17 manner, and you will not be permitted to come back in
18 again. Now, I think that basically covers what I wanted to
19 say. None of us are terribly happy about being here this
20 afternoon, but we have a job to do and we're going to do
21 it. We're going to do it in the right atmosphere and in
22 the right spirit. Mr. Lawton, are you ready?

23 MR. LAWTON: We're ready, Your Honor. I would advise the
24 Court, of course, that we have one witness who still hasn't
25 appeared - - -

1 THE COURT: Yes, sir, I'm - - -

2 MR. LAWTON: - - - but the State will proceed without her.

3 THE COURT: If we have to take a recess later on we'll do that.

4 Mr. Falligant, are you ready?

5 MR. FALLIGANT: Yes, sir, I'm ready. And, Your Honor, on be-

6 half of my client I am waiving - - he has waived his appear-
7 ance in writing - - his right to be present today.

8 THE COURT: Mr. Lawton?

9 MR. LAWTON: Thank you, Your Honor, may I inquire whether - - I
10 assume Mr. Falligant advised him of his right to be here.

11 MR. FALLIGANT: Oh, yes, I have.

12 MR. LAWTON: And fully discussed with him whatever consequences
13 may development from his not - - -

14 MR. FALLIGANT: I will state for the record I have fully ad-
15 vised him of his right to be present, and also that he has
16 a right to waive that, and he knowingly and intelligently,
17 in my opinion, waived that right, and has done so in writ-
18 ing.

19 THE COURT: All right, sir. Anything else, gentlemen?

20 COUNSEL: Nothing, Your Honor.

21 THE COURT: Let's proceed.

22 THE CLERK: Case No. 89-09-163, Troy A. Davis, charged with
23 murder. Following witnesses, please come forward to be
24 sworn: Officer Ramsey, Officer Tyson, Larry Young, Harriett
25 Murray, Sylvester Coles, Jeffery Sapp, Monty Holmes, David

1 Fernandee, is that correct?

2 THE COURT: Where is Officer Tyson?

3 THE CLERK: He's listed on the warrant, Judge.

4 MR. LAWTON: We don't expect to call him, Your Honor.

5 THE COURT: All right, thank you.

6 THE CLERK: Would you step around here, please, ma'am?

7 All witnesses, please raise your right hand.

8 WITNESSES WERE DULY SWORN AND TESTIFIED AS FOLLOWS:

9 THE COURT: Now, I presume we want the witnesses sequestered.

10 MR. FALLIGANT: Yes, sir, I do, Your Honor.

11 THE COURT: All right, Mr. Lawton, which witness do you want to
12 call first?

13 MR. LAWTON: We'll call Mr. Young first.

14 THE COURT: All right, now, will everybody else please go with
15 Captain Wilshire, and take a seat in my office and sit there
16 quietly. Listen, do not discuss the case among yourselves
17 or with anybody else. If anybody approaches you while
18 you're outside and attempts to talk to you about the case I
19 want to know about it. Thank you.

20 MR. FALLIGANT: Your Honor, for the record, I would ask that
21 after a witness testifies that he be sequestered and not
22 sit back with the other witnesses who have not testified if
23 that would be agreeable with the Court.

24 THE COURT: All right, sir, did you hear that?

25 MR. LAWTON: Beg your pardon, sir.

1 THE COURT: Mr. Falligant has requested that after a witness
2 has testified and been excused from the courtroom, that he
3 be placed somewhere other than with the witnesses who have
4 not yet testified.

5 MR. LAWTON: That's no problem, Your Honor.

6 THE COURT: All right, thank you.

7 MR. LAWTON: May we proceed, Your Honor?

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION OF LARRY YOUNG BY MR. LAWTON:

10 Q. Mr. Young, if you'll state your name, please.

11 A. Larry Douglas Young.

12 Q. You need to speak up so that that microphone over there can
13 pick up your words, okay. How old are you, Mr. Young?

14 A. I'm 23 years old.

15 Q. All right, do you recall where you were on the evening of
16 Saturday, actually Saturday morning during the early hours
17 from say, 12:30 to 1:00 o'clock in the morning?

18 A. Between those hours I was right there at the Greyhound Bus
19 Station sitting on a brick wall and drinking beer.

20 Q. Okay now, would that be a brick wall that borders the
21 Burger King parking lot there?

22 A. Yes.

23 Q. On Oglethorpe and Fahm Streets?

24 A. Yes.

25 Q. Is that right?

1 A. (Nods head affirmatively)

2 Q. Okay, were you with anyone?

3 A. Yes, me and Retta was right there at the time.

4 Q. Okay, who is Retta?

5 A. Henrietta Murray.

6 Q. And is she a friend of yours?

7 A. Yes.

8 Q. So you said you were drinking a beer?

9 A. Yes.

10 Q. Okay, were you sharing that beer, or - - -

11 A. Yeah, I was sharing it - - sharing it with Retta.

12 Q. Okay.

13 A. That's - - when the beer ran out I went to the store to get
14 - - to get a couple more.

15 Q. Okay, and what store did you go to to do that?

16 A. To the Penny Saver's - - Time Saver right down on the cor-
17 ner on Oglethorpe Street by Charley Brown's.

18 Q. Okay, that would be near the foot of the Talmadge Bridge,
19 right?

20 A. Yeah.

21 Q. Facing Oglethorpe Street?

22 A. Uh-huh.

23 Q. And did you buy beer there?

24 A. Yes, I bought four cans of beer.

25 Q. What did you do when you had bought the beer, did you leave

1 the shop?

2 A. Left the store, started heading back towards where Retta
3 was at. She - - told her to stay - - wait there 'til I
4 come back, that I was going jog on down there and get it
5 and jog on back.

6 Q. Okay, so where - - how did you get yourself back up in the
7 direction of the Burger King parking lot?

8 A. I left the store and I came back down Oglethorpe Street,
9 I came back down Oglethorpe.

10 Q. Did anything unusual happen as you left the store and as
11 you were heading up Oglethorpe to the Burger King?

12 A. That's when a guy - - guy approached me coming across,
13 that I was walking across from the store, asked me for a
14 beer and I told him no. He started cursing me and every-
15 thing, and I cursed him back.

16 Q. Did you keep walking?

17 A. Yeah, kept walking.

18 Q. This would be up towards the Burger King, is that right?

19 A. Yes.

20 Q. Did he follow you as you were walking?

21 A. Yes.

22 Q. Was he saying anything to you?

23 A. Yeah, he was constantly arguing at me and I kept walking.
24 And I was cursing back and I kept walking, I didn't stop.

25 Q. Did you walk all the way up to the Burger King parking lot?

1 A. Yes, by the time I got near the bank I noticed the guy was
2 running through a hole in the fence which is on the side
3 where the store is at. And that kind of scared me a little
4 bit, you know. It was a couple of them up - - a couple of
5 guys up there, but I didn't know if any of them was together
6 or not, so I just noticed that, you know, so I sort of
7 picked up my pace.

8 Q. And so this guy that ran through the fence, where did he -
9 - did you see where he went after he cleared the fence?

10 A. Well, he went 'round to the back of the bank.

11 Q. This be the Trust Company, is that right, Trust Company
12 Bank building there?

13 A. Yeah.

14 Q. Okay, and meanwhile the other fellow was still following
15 you, right?

16 A. Uh-huh.

17 Q. And you all were exchanging words back and forth?

18 A. Yes.

19 Q. None of that very friendly, I take it.

20 A. Not at all.

21 Q. Okay, did you get back up to the parking - - to the Burger
22 King parking lot?

23 A. Yes, well, I got 'bout right by the bank, right on the
24 corner - - right on the corner of Fahm and Oglethorpe. And
25 that's when I noticed there was another guy was back there

1 too, which made, you know, made a third guy far as I was
2 concerned 'cause I - - you know, I saw one guy running
3 around there and so I just thought about it. I assumed it
4 was three of them together.

5 Q. Okay now, where had you left Retta, I mean, that - - it's a
6 wall there and there's one end of the wall and another end
7 of the wall. Did you leave her at any particular place
8 along the wall?

9 A. Right near the corner of Oglethorpe and - - Oglethorpe and
10 Fahm, further - - nearer Oglethorpe than Youman Street.
11 Closer to Oglethorpe.

12 Q. Closer to Oglethorpe than Youman Street, is that right?

13 A. Yeah.

14 Q. Wall, what did you do when you got to that corner?

15 A. Well, at that time the guy had came 'round the bank. When
16 he came by the bank the other guy was closer up on me. I
17 didn't bother to look back at that point. Retta and - -
18 there was two other guys sitting there on the brick wall by
19 the time I came back, I believe they were waiting on a bus,
20 to get on the Greyhound. So the guy said something, and as
21 I was walking towards Retta the two guys sitting on the
22 brick wall, they turned around and started running. And
23 when they started running it made me look back where the
24 guys had then - - all of them had just done practically
25 closed in on me. And I hurried up and as they was right up

1 behind me I got up on the brick - - brick wall and was walk-
2 ing towards the - - towards the Burger King.

3 Q. Okay, so that would put you in the Burger King parking lot?

4 A. Yeah.

5 Q. Is that right?

6 A. Yeah.

7 Q. Up over the wall and in the parking lot walking towards the
8 Burger King?

9 A. Right.

10 Q. What did you do then, did you - - -

11 A. I just kept telling the guy - - I was constantly walking, I
12 told him, I said, "I don't want no kind of trouble," I said,
13 "I don't want to fight you or nothing like that," you know,
14 I said, "I'm just going 'bout my business." And at that
15 time they - - I had done walked - - kept walking. They was
16 still right by me and everything, you know. So after a
17 while I just stopped. And one of them got up in my face,
18 you know, started passing words again.

19 Q. Okay, let me ask you this. There were three of them, is
20 that correct?

21 A. Yes.

22 Q. There was one who had followed you all the way up from the
23 Time Saver?

24 A. Uh-huh.

25 Q. And, let's call him the argurer, since you were arguing

1 with him, okay?

2 A. Okay.

3 Q. Now, when you stopped in the parking lot and they were
4 around you, where was he standing?

5 A. He was standing right in front of me, facing me.

6 Q. Okay, where were the other two guys standing?

7 A. They was - - one guy was on this side, sort of back, not
8 right lined up with me but he was sort of back. There was
9 another guy right here on this corner right here, kind of
10 back.

11 Q. So that would be one on your right side and one on your
12 left side, is that right?

13 A. Yes.

14 Q. Do you remember what the guy in front of you was wearing?

15 A. All I remember was a yellow T-shirt.

16 Q. How about the guy upon your right side, what was he wearing?

17 A. He had on a white T-shirt.

18 Q. Anything else that you can remember about what he was wear-
19 ing?

20 A. Far as I can remember it was a light-colored cap, possibly
21 a white cap.

22 Q. So now you're stopped and these guys are standing around
23 you. Are you still arguing with the yellow shirt?

24 A. Well basically my attention was focused on him.

25 Q. Did he or you do anything at that point?

1 A. No, well he was - - -

2 Q. Or say anything?

3 A. - - - sort of coming, he was sort of close up on me, so at
4 that time, you know, sort of like - - like somebody - - he
5 jumped at me so to speak, you know, so that put my full
6 attention on him. And - - -

7 Q. What happened then?

8 A. At that time that's when I felt like I got a blow to the
9 head, you know, I sort of got boxed in the head by the guy
10 on the right-hand side. It was more or less - - it knocked
11 me dizzy, you know.

12 Q. Could you tell what he hit you with, whether it was just
13 his hand or some object?

14 A. Well, I thought it was a - - just a fist until, you know,
15 as it hit me, you know, when I got the blow I got dizzy,
16 knocked me real dizzy, so that right then I figured it wasn't
17 a blow, you know, it knocked me dizzy.

18 Q. Okay, I'm going to ask you what you did next, but before I
19 do, before we leave this point, could you describe the
20 lighting conditions in the parking lot? Was it dark out
21 there or well lit, or how would you describe it?

22 A. Well, it was sort of - - it was lit but the way, - - the way
23 the trees and all were there blocking the street lights,
24 but the lights from Burger King were there. It was sort of
25 like - - they was shining a light sort of in my face so I

1 couldn't really, you know, see, you know, far as looking
2 'round me. Certain angle I be at I couldn't see too much
3 'cause the light be right in my face.

4 Q. Did you have any trouble distinguishing colors? I mean,
5 are you sure that one T-shirt was yellow and the other was
6 white, for example?

7 A. Yeah, definitely.

8 Q. Could you see colors out there as well as you can see in
9 this room, or less well?

10 A. No, not as good as I can see in here.

11 Q. But you're not in any doubt about the colors, I take it,
12 are you?

13 A. No, I'm sure it was yellow and white, positive.

14 Q. You know, you're sure that it was not the yellow shirt that
15 hit you?

16 A. Oh, I'm sure, sure about that.

17 Q. Okay, let me ask you then, when you got hit what did you do
18 then?

19 A. Well, I got hit, managed to - - I was stumbling towards
20 Burger King. And I went to try to get to the door and I -
21 - I did it somehow or other. I was dizzy at the time but I
22 managed to get to the door and the door was locked, and I
23 pulled that one time. And I made it to the drive-in window.

24 Q. When you were heading over to the Burger King building and
25 the drive-in window, what did - - do you know where the

1 other three guys went, or were you paying any attention to
2 them?

3 A. Well, I wasn't paying - - I was dizzy at the time, I was
4 - - everything was like fuzzy.

5 Q. Were you bleeding?

6 A. Yeah, very heavy.

7 Q. Where did you get hit, you got hit in the side of the head,
8 is that right?

9 A. Right, right here by my eye.

10 Q. Is that the scar you're pointing to by your right eye?

11 A. Yes, right here.

12 Q. Okay, you got to the drive-in window, and what happened
13 then?

14 A. Well, I told the guy who was working in Burger Kind to call
15 the police, you know, 'cause I was, you know, I was getting
16 beat up. And he closed the window and he closed the drive-
17 in window so that left me up to the drive-in window.

18 Q. Okay, was there a van there?

19 A. Yes, there was a blue van.

20 Q. Where did you go from that spot, or did you go anywhere?

21 A. Well, at that time I was between the drive-in window and
22 the van. That's when I heard - - I heard a gunshot at that
23 time. And then I went on 'round the bus station.

24 Q. Have you always been so certain about the gunshot, was
25 there some confusion about that earlier?

1 A. It was confusion about that. I really didn't - - I didn't
2 think about it at the time when it first happened. I didn't
3 realize it until I, so to speak, came back to myself. And
4 I recall I heard it.

5 Q. So ~~at one~~ point you didn't recall having heard any shots
6 during that particular interval while you were up against
7 the building is that right?

8 A. One time.

9 Q. Okay, but are you certain that you did hear a shot then?

10 A. Positive.

11 Q. How many shots did you hear?

12 A. Well, I can't call the number of shots, but I know for a
13 fact when it happened I, you know, I squatted between the
14 van tire and the van, so that's - - -

15 Q. Okay, so then you said you left and ran around the building,
16 is that right?

17 A. Yeah, around Oglethorpe Street side.

18 Q. And did you try to get in the building?

19 A. Yes, the door was locked.

20 Q. The doors on Oglethorpe Street side, right?

21 A. (Nods head affirmatively)

22 Q. Just in parenthesis here, do you recall what you were wear-
23 ing that night?

24 A. Had on a pair of black warm-up pants and a T-shirt that had
25 Allied Department Store, they had some - - some Ninja

1 turtles on them.

2 MR. FALLIGANT: Pardon me, what was that?

3 MR. LAWTON: Sounded like, "Ninja turtles."

4 A. Ninja turtles cartoon characters.

5 Q. So you tried to get in the front doors of the bus station
6 and they were locked you said, so you went around, is that
7 right?

8 A. All the way - - all the way around.

9 Q. All right, and what did you do then?

10 A. Well I - - I bumped back into Retta back there and she
11 helped me, you know, far as walking. I was real dizzy, I
12 was like barely making it. She helped me get on around
13 there and I told her I had to go in the bus station, put
14 some water on my face, you know, try to wash the blood off.
15 The blood was running pretty heavy.

16 Q. And did you wash the blood off?

17 A. Yeah.

18 Q. What happened then?

19 A. Then I came back out. When I came back out the rest room
20 she helped me walk out the door where the busses park at
21 which is on the side where Fahm Street's at. And when we
22 came out the door and got 'bout the middle of the street,
23 middle of Fahm Street, that's when the officer came and - -
24 came and got me, grabbed me by my arm and pulled me over
25 there and told me that they wanted me back there in the

1 parking lot.

2 Q. So did he take you back to the parking lot?

3 A. Yes, he took me back to the parking lot.

4 Q. Did you see the officer's body on the ground then?

5 A. That's when I - - that's when I saw the body. That was the
6 first time I even saw the officer, period, when he was on
7 the ground.

8 Q. Now have you had an occasion to look at a photo spread?

9 You know what I mean, a series of photographs.

10 A. Yes.

11 Q. Did the police show you those photographs?

12 A. Yes, showed me quite a few photographs.

13 Q. Okay, do you know when they showed you the photographs?

14 A. They showed me some that night. Took me to the police
15 station.

16 Q. Okay, who showed them to you, do you remember? It was a
17 police officer, was it?

18 A. It was a detective, one detective.

19 Q. Was it Ramsey, do you remember?

20 A. No, I think it was Detective Oglesby I think it was if I'm
21 not mistaken.

22 Q. Do you remember how many photographs were in that display?

23 A. Well, I believe it was - - I think it was about six. I
24 seen a photo spread twice.

25 Q. Okay, when you were shown the photo spread the first time,

1 did you pick anybody - - did you identify anybody in it as
2 having anything to do with this case?

3 A. Yes.

4 Q. Okay, and the person you picked out, do you remember what
5 you said that person had done?

6 A. No, I can't recall. I told them that was one of the guys.

7 Q. One of the guys that was there?

8 A. Yeah.

9 Q. Didn't you pick - - do you recall whether you picked out
10 one of those guys as being the one who was arguing with you?

11 A. Yeah, I did, I picked him out, if that's what you're asking me, I
12 picked out the guy who I been arguing with, but when they showed
13 me - - when I saw - - I told them I definitely couldn't say
14 but - - but if I was to see him, you know, in person, I
15 would know for sure. And when I saw the guy who I was
16 arguing with in person, even the detective say it was a
17 resemblance, you know. I told him I wasn't definitely sure
18 but when I saw him in person I knew that was him.

19 Q. When did you see him in person?

20 A. When they had him to the detective's office.

21 Q. What were you doing when you saw him?

22 A. I was - - I was getting ready to be questioned by the detectives,
23 I believe, whether or not that I knew it was him.

24 Q. Was he sitting down somewhere?

25 A. No, he was walking in the door.

1 Q. Okay, and you just happened to see him?

2 A. No, they - - they brought him - - they brought him to the
3 door.

4 Q. Okay, what did you - - when you saw him what did you say,
5 what did you do?

6 A. I - - I told them that that was him.

7 Q. That that was who?

8 A. That was the guy who I was arguing with.

9 Q. Okay, that evening were you taken to the hospital?

10 A. The evening that I got hit?

11 Q. The evening you got hit.

12 A. Yes.

13 Q. Did you go to the hospital - - did you go to the emergency
14 room at the hospital?

15 A. Yes.

16 Q. And what happened, what treatment did you get there?

17 A. When I got there they stitched me up. They gave me fifteen
18 stitches.

19 Q. There was a cut over your eye?

20 A. Yes.

21 Q. Have you been in the hospital since that time?

22 A. Yes, I've been in that hospital, I just got out Wednesday.

23 Q. What was your problem in the hospital since then, since you
24 had the stitches?

25 A. Well, when I got stitched up here, I went back that Friday

1 week - - week after the incident, and they took and removed
2 the stitches. And that Tuesday I went back with my head
3 been bothering me for three days, three consecutive days.
4 I was supposed to have went to work that morning but I
5 called in, told them that I couldn't make it 'cause I was
6 feeling bad. I went to the hospital that Tuesday morning
7 and they ran CAT scans on me and found I had a blood clot
8 on my brain, and they admit me in the hospital.

9 Q. So you've had brain surgery since that time?

10 A. Yes.

11 Q. Are you still under a doctor's care?

12 A. Yes.

13 Q. The surgery on your head was to remove the clot on your
14 brain, right?

15 A. (Nods head affirmatively)

16 MR. LAWTON: That's all I have. Mr. Falligant will have some
17 questions for you.

18 CROSS EXAMINATION OF LARRY YOUNG BY MR. FALLIGANT:

19 Q. Mr. Young, where do you live, sir?

20 A. Grace House.

21 Q. Grace House?

22 A. Yes.

23 Q. Are you a resident of Savannah?

24 A. Yes, at Grace House.

25 Q. How long have you lived at Grace House?

1 A. About a month and a week now.

2 Q. Month and a week, all right. Is Savannah your home year
3 'round or you just a transient here, you just passing
4 through Savannah?

5 A. Well, no, it's been my home. I stayed in California about
6 eight months and I came back.

7 Q. You have any relatives here?

8 A. Yes.

9 Q. And who's your closest relative here?

10 A. My mother.

11 Q. What's her name?

12 A. Marilyn.

13 Q. Marilyn?

14 A. Marilyn.

15 Q. Young?

16 A. No, Stewart.

17 Q. Stewart, and where does she live?

18 A. She lives on 806 West Lathrop Avenue.

19 Q. 806 West Lathrop Avenue?

20 A. (Nods head affirmatively)

21 Q. All right, sir, now as I understand your testimony you said
22 that you were up at the Greyhound Bus Station that night
23 with Retta, is that - - -

24 A. Yeah.

25 Q. What was Retta's last name?

1 A. Murray.

2 Q. Murray, is that your girlfriend?

3 A. Yes, at the time, yes.

4 Q. Where does she live?

5 A. Stays at Grace House.

6 Q. She's also a resident of Grace House?

7 A. Yes.

8 Q. Okay, then you were domiciled there that night, you were
9 just out, I guess, socializing, is that correct?

10 A. Yes.

11 Q. What time was it when you and Retta first left Grace House
12 and went over to the bus station?

13 A. Oh, I bumped into Retta, it was about - - it was maybe
14 'bout 11:30, maybe about 11:30, 12:00 o'clock when I bumped
15 into her. I had just came off of West Savannah.

16 Q. 11:30 or 12:00 o'clock?

17 A. Yeah, I bumped into her by the bank, going to the store I
18 bumped into her.

19 Q. You said you had just left West Savannah, where had you
20 been in West Savannah?

21 A. I had been on Hudson Hill.

22 Q. What were you doing over there?

23 A. I was over there with friends and cousins playing some
24 games.

25 Q. Had you done any drinking that day before you met Retta?

1 A. Yes.

2 Q. How much had you had to drink?

3 A. Well, I had drinks, me myself approximately about - - 'bout
4 six or seven, 'bout seven or eight, seven beers.

5 Q. Seven or eight?

6 A. Yeah, that's around seven or eight?

7 Q. Before you met Retta?

8 A. Yeah.

9 Q. Then you met Retta and you all were sitting on the wall in
10 front of the bus station there - - -

11 A. Yes.

12 Q. - - - which there's a small parapet wall.

13 A. Yes.

14 Q. In fact, it runs along Fahm Street, is that correct?

15 A. A little concrete.

16 Q. Let me, if you don't mind looking at this, I'll show this
17 to the Court. This does not purport to be to scale but I'm
18 going to showing what - - it's a drawing basically of that
19 area. This is - - you recognize this as Oglethorpe Avenue?
20 with a median?

21 A. Yes.

22 Q. And this would be the Burger King and the bus station here.
23 This is the drive-in window. This is a small wall.

24 A. Yes.

25 Q. Is this were you all were seated?

1 A. Yeah, we was sitting right up in there.

2 Q. If you will, I'm going to ask you to take this pen, which
3 is blue, just put an "X" mark where you and Retta were
4 seated the first time. If you'll just put your initials
5 there if you will.

6 A. Right here.

7 Q. Just put your initials right there so we'll be able to
8 identify that. Now, and Retta was seated next to you?

9 A. Yes.

10 Q. All right, this was about what time?

11 A. It was approximately about 12:00 o'clock.

12 Q. About 12:00 o'clock, and was anyone else along that wall as
13 you and Retta sat there together?

14 A. No, not that I can recall.

15 Q. All right, did you see anyone else. And I think Grace
16 House is immediately across the street here in this area.
17 This is the gate to Grace House back here, is that correct,
18 which is across Youman Street?

19 A. Yes.

20 Q. Okay, you can see this across that parking lot, can't you?

21 A. Uh-huh.

22 Q. Did you see anyone else in the parking lot at 12:00 o'clock
23 as you all sat there?

24 A. Well, I seen it was quite a few people come, going in and
25 out of the drive through. I didn't notice anything out - - -

1 Q. This is the drive through over here. I gather people were
2 in and out of the doors there, is that right?

3 A. Well, they - - -

4 Q. You recognize these as the doors to Burger King?

5 A. Uh-huh.

6 Q. Now, you decided that you were going to buy some more beer
7 at that point?

8 A. Yes.

9 Q. Did you have any beer as you sat there before you decided
10 to go and buy some more beer?

11 A. Yes, I had a can, I had a can of beer.

12 Q. You had brought it with you?

13 A. Yeah, one of the - - one of the seven cans.

14 Q. Oh, one of the seven cans?

15 A. I had it in my hand.

16 Q. So you brought that with you so you, I gather, when you
17 finished that can you decided to go get some more beer, is
18 that right?

19 A. Yes.

20 Q. And Retta said she'd wait behind?

21 A. I told her - - I told her to wait, you know, I told her I
22 was going to jog down there and jog right back.

23 Q. And you went - - I think you said you walked down Oglethorpe
24 past the Trust Company Bank which is here on the corner?

25 A. Yes.

1 Q. And down to Charlie Brown's Pool Hall and Chicken Stand, is
2 that right?

3 A. I went to the store down there.

4 Q. What's the name of the little store?

5 A. Penny Saver.

6 Q. Penny Saver?

7 A. Or Starvin Marvin.

8 Q. And how much beer did you buy at that time?

9 A. I bought four cans.

10 Q. When you came out of the store, did you see anybody in front
11 of the Charlie Brown's Pool or the Chicken - - -

12 A. Yes.

13 Q. How many people did you see?

14 A. I couldn't say exactly how many. I would estimate probably
15 about five people.

16 THE COURT: Who is this gentleman coming in?

17 MR. FALLIGANT: He's an investigator.

18 MR. LAWTON: He's an investigator in our office, Your Honor.

19 Q. Okay, so you say you saw five or six people, were these
20 young black males basically?

21 A. Well, basically.

22 Q. Part ---

23 A. It's so many different type of people be down there, I mean
24 I really didn't pay it no attention. I was bypassin', just
25 wasn't paying no attention.

1 Q. They were just standing in the parking lot, is that right?

2 A. Or on the curb, you know, on the - - -

3 Q. On the curb?

4 A. Sidewalk.

5 Q. Now, as you walked past them you said that one individual
6 approached you at that point, is that correct?

7 A. Yeah, well he didn't come in my face at that time. He
8 talked across from right there where he was at.

9 Q. Was he standing with the group of five or six people in
10 front of Charlie Brown's?

11 A. Well, everybody was standing like - - like at certain inter-
12 vals out there, I mean, nobody be close in one area.

13 Q. Did he appear to be with the group?

14 A. Well, to me he didn't appear to be - - didn't appear to be
15 with nobody.

16 Q. Did he - - what were the first words that you recall him
17 speaking to you?

18 A. Give him one of those beers.

19 Q. Did you have the beers in a paper bag, or were they open?

20 A. Yeah, they were in a bag.

21 Q. How do you think he knew you had beer in the bags?

22 A. Well, I had one in my hand.

23 Q. Oh, you had one in your - - -

24 A. I had one in my hand and I had the rest of them in the bag.

25 Q. This one you had in your hand, was this the one that you

1 were drinking down here, or was this a fresh beer that you
2 had opened?

3 A. This was a fresh one, he saw me when I opened up the top
4 one.

5 Q. So that would be number eight that you had in your hand
6 that you were starting to drink at that point?

7 A. Yeah.

8 Q. All right, so as you began to walk past, he said, "Give me
9 one of those beers," what did you respond to him?

10 A. I told him, "I'm sorry, I can't help you," and that was it,
11 that's all I said.

12 Q. And then I gather you didn't stop, you just continued to
13 walk?

14 A. No, kept walking.

15 Q. And did he say anything else to you at that point?

16 A. Yes, he cursed me out.

17 Q. Now, when this individual spoke to you, did you turn and
18 look at him?

19 A. Yeah, when I was walking, looking to the side.

20 Q. Now, when you turned and looked, how far away was he when
21 he spoke those words to you, "Give me one of those beers"?

22 A. Well, I was 'bout - - I'd say 'bout - - 'bout a good - -
23 'bout 15, 20 yards away from the front door to Time Savers.
24 I was walking diagonally from the Time Saver across the
25 parking lot. I didn't go down the sidewalk.

1 Q. Would that be 15 or 20 yards from him?

2 A. I would say no, it was further than that 'cause I went
3 diagonally across.

4 Q. How far, just your best estimation?

5 A. I'd say about 20, 25 yards.

6 Q. 20 or 25 yards away from him?

7 A. Yeah.

8 Q. All right, when you looked over in the direction to see who
9 spoke to you, did you notice how this individual was dressed,
10 could you describe what you saw as you glanced in his direc-
11 tion?

12 A. Looking - - just looking at him?

13 Q. Right, what did you see?

14 A. Well, I saw him, I had a clear picture of him.

15 Q. All right, describe the person that you saw.

16 A. Well, he had on a yellow T-shirt and he had a short haircut.

17 Q. How tall did he appear to be?

18 A. 'Bout my height.

19 Q. So how tall are you?

20 A. 5-11.

21 Q. You're 5-11. How heavy did he appear to be?

22 A. A little bit lighter than me.

23 Q. A little bit lighter skin than you. Is he black male?

24 A. Yes.

25 Q. What type of pants did he have on, or shorts?

1 A. The one that I was - - the one that I had a confrontation
2 with, I'm not sure of the color.

3 Q. Did he have on long pants or short pants?

4 A. I think it was short pants, I'm not sure.

5 Q. Do you remember the color of them?

6 A. On him, I'm not sure the color he had on.

7 Q. I'm not trying to confuse you, but now you said the one
8 that you had the confrontation with. All right, the con-
9 frontation really took place farther down in the parking
10 lot, correct?

11 A. Yeah, but it started - - -

12 Q. Okay, but that is the same individual who spoke the words
13 to you, "Give me one of those beers," is that right?

14 A. Yes.

15 Q. It was the same person, okay. So you continued to walk.
16 Did that individual then start to follow you?

17 A. Yes.

18 Q. And at that point did he start cursing you?

19 A. Yeah, he was still behind me, he was cursing me.

20 Q. How far did he stay behind you?

21 A. Good little ways, I mean, he didn't start walking right be-
22 hind me 'til I got just about right around the gate of the
23 bank.

24 Q. Did he have a hat on?

25 A. One I was arguing with, no.

1 Q. Okay, so you walked - - now when you walked back to the
2 Burger King to meet Retta, you walked down Oglethorpe?

3 A. Yes.

4 Q. The same route that you went to the Penny Saver Store?

5 A. Yes.

6 Q. This individual followed you down there and still began to
7 curse you and was speaking to you in the back, is that
8 correct?

9 A. Uh-huh.

10 Q. Do you recall what he was saying behind your back as you
11 continued towards the Burger King parking lot?

12 A. No, I just - - I didn't pay it no attention, I just kept
13 walking.

14 Q. You just ignored him?

15 A. Yeah, so to speak, yeah.

16 Q. When you got to the corner you crossed the street, is that
17 correct?

18 A. Uh-huh.

19 Q. Now, I believe you said though, as you walked up behind the
20 bank that you noticed - - -

21 A. Yeah.

22 Q. - - - two individuals come from a hole in the fence, is
23 that correct?

24 A. I didn't notice two, I noticed one guy coming through there.

25 Q. One, all right. Behind the Trust Company parking lot is a

1 fence that separates the bank from Charlie Brown's estab-
2 lishment, is that right?

3 A. That's right.

4 Q. And over in the far left-hand corner there's a small hole
5 isn't it?

6 A. Yeah.

7 Q. And you saw an individual scoot under that hole and come
8 across the back of that parking lot, didn't you?

9 A. Yes.

10 Q. Now, when you first saw that individual, describe him for
11 us if you will.

12 A. Well, all I saw, you know, it wasn't quite lighted area
13 back up in there. I saw him come through the - - come
14 through the hole and I recall seeing a white T-shirt come
15 across there.

16 Q. That's the individual with a white T-shirt?

17 A. Yes.

18 Q. That's all you could see at that point 'cause it was dark
19 back there?

20 A. Yeah.

21 Q. Now, in which direction did that individual go?

22 A. Walking parallel with me.

23 Q. Parallel with you, now, did he come across the back of the
24 lot of the bank and start walking parallel with you down
25 Oglethorpe?

1 A. No, parallel from there, he was coming the same way I was
2 coming.

3 Q. Now this would be the driveway to the drive-in banking
4 window for Trust Company, do you recognize that?

5 A. Yeah.

6 Q. Okay, so he came out of a hole in the fence in the back?

7 A. Uh-huh.

8 Q. And walked down the drive-in driveway?

9 A. Yeah.

10 Q. Past the drive-in window of the bank, and he paralled you?

11 A. He came - - came across.

12 Q. You were walking down Oglethorpe and he was walking basic-
13 ally down the bank driveway?

14 A. He possibly was jogging 'cause he was walking with me, he
15 came - - when he got down - - when I got down here on the
16 end he was across here, coming across.

17 Q. So did this individual here appear to be trying to make a
18 hasty approach, did he try to be - - did he look like he
19 was hurrying?

20 A. Yeah.

21 Q. To catch up with you or with someone?

22 A. Yeah.

23 Q. All right, when you reached the corner here, did you ever
24 notice that individual over here that you said walked par-
25 allel with you down the bank driveway?

1 A. No, I didn't notice him 'til I got by the - - in the street.

2 Q. You're pointing to Fahm Street, so when you got about in
3 the middle of Fahm Street you looked back and you could see
4 that individual, is that right?

5 A. Yeah, well he had done came 'round then, he had came
6 round - - -

7 Q. Where was he when you first saw him after you got in the
8 middle of Fahm Street?

9 A. Right 'bout right - - 'bout right over in here. He had
10 came 'round here, was over there.

11 Q. You just put a little dot when you say over there, you're
12 showing him in Fahm Street also.

13 A. Well, I saw him - - I saw him up in here.

14 Q. Well just put, okay, put an "X" mark so we'll know what
15 that looks like, 'cause that's where you saw him and you
16 were right about here. Put a circle where you were in the
17 middle of Fahm. All right, now, at that point were you
18 still aware of the individual in the yellow T-shirt behind
19 you?

20 A. Yes.

21 Q. All right, then what did you do? Go ahead and continue
22 with the story. You crossed the street and went into the
23 lot, right?

24 A. Well at this time they were behind me. And Retta and two
25 guys were sitting there. There was two guys sitting right

1 up in here. She was sitting right up in there, right there.

2 This the wall here?

3 Q. Yes, this would be the wall here. This is actually a grass
4 plat, this is the sidewalk, and this is the wall, and this
5 is the tree, okay?

6 A. Okay, so this is the wall right there.

7 Q. All right now, you had put your initial, "L.Y." where you
8 were sitting.

9 A. Yes.

10 Q. So was Retta sitting in that same location when you came
11 back?

12 A. We were sitting right there side by side.

13 Q. But there were two other individuals?

14 A. They were sitting 'bout right up in there.

15 Q. Put a circle there, put number one and number two for the
16 two individuals, that's number one and number two. They
17 were sitting down a little bit from Retta.

18 A. Yeah.

19 Q. How many feet would you estimate, just approximately?

20 A. I'd say about eight - - eight feet.

21 Q. Eight feet, all right, now, did you then cut across the
22 sidewalk and approach Retta?

23 A. Well, by the time - - I didn't approach her 'cause by the
24 time I got up here all three of them turned around and
25 started running.

1 Q. All right, stop at that point. You said all three of them.
2 What three are you referring to?

3 A. Retta and the two guys.

4 Q. Retta and the two guys got up and they started running in
5 what direction?

6 A. I'm not sure. These guys they think they went this way and
7 Retta went this way.

8 Q. All right, all right, now, for the record so we'll under-
9 stand, you're indicating that the two guys ran, basically
10 north is this way, which would be a northeasterly direction
11 towards the rear of the bus station, right?

12 A. Yeah, diagonally across there.

13 Q. Diagonally across the parking - - and Retta went running in
14 which direction?

15 A. This way towards the Burger King.

16 Q. She ran towards, would you say the front door of Burger
17 King, that's what you're pointing to.

18 A. Yeah, I would say yeah.

19 Q. Do you know why they ran?

20 A. The guy said something back there which I didn't pay it no
21 attention.

22 Q. All right, you said the guy, which guy said something?

23 A. The guy who had the yellow T-shirt on. It was another guy
24 fell in behind him as we were walking down the street.
25 When I looked back that's when I saw it was another guy

1 with him.

2 Q. All right now, put, if you will, two circles where you saw
3 the guy with the yellow T-shirt, and the other fellow who
4 had joined him. Now, so we'll understand each other, at
5 this point there was a fellow in a yellow T-shirt, a fellow
6 over here in a white T-shirt?

7 A. Yeah.

8 Q. And another individual who had joined the person with the
9 yellow T-shirt, so we have three individuals - - -

10 A. That's right.

11 Q. - - - who were not members of your party, plus two people
12 who had started across the parking lot who were sitting on
13 the wall?

14 A. Yeah.

15 Q, Now, would you describe for us please the individuals that
16 joined the person with the yellow T-shirt that you said
17 asked you for one of the beers?

18 A. I - - I - - I didn't see nothing about him. He was sort of
19 hanging back. I couldn't get no description of him at all.

20 Q. Did you see what he had on?

21 A. No.

22 Q. Could you tell if he was white or black?

23 A. He was black.

24 Q. You said he was kind of hanging back, was he sort of behind
25 the person with the yellow T-shirt?

1 A. Yeah, he was sort of in the back like he wasn't really
2 there with them.

3 Q. Like he wasn't - - -

4 A. Wasn't necessarily as hostile as the other two.

5 Q. When you say hostile as the other two, I gather you feel
6 that the fellows in the yellow T-shirt and white T-shirt
7 were out to get you.

8 A. Well, all three of them was together. I didn't know who
9 was who, but I know he wasn't one hanging back.

10 Q. Do you know why Retta and the other two ran?

11 A. The guy said something who was behind me, and that - - -

12 Q. And that caused them to go?

13 A. And that caused all three of them to leave at the same time.

14 Q. So then what did you do, show us exactly where you went?

15 A. That's when I speeded up and I came 'cross here.

16 Q. All right, put an "X" mark where you stopped.

17 A. Okay, I came from right there and I came right up in here.

18 Q. All right, by the tree?

19 A. Right - - right there, right up in here. I was on the con-
20 crete by the time they surrounded me, just as I got up here.

21 Q. On the concrete wall?

22 A. That's when all of them closed in on me.

23 Q. All right now, you said all of them, so I gather then the
24 one in the white T-shirt, the yellow T-shirt and the third
25 individual, you never did get a good description of him - - -

1 A. That's right.

2 Q. Or a good look at him, right?

3 A. Uh-huh.

4 Q. They converged on you up here at the wall?

5 A. Not quite there, that's when I got up, that's when they
6 were right behind me, but by the time I done came up in
7 here they had me surrounded.

8 Q. Now, you're pointing to the parking lot?

9 A. Okay.

10 Q. Okay, where in the parking lot had they surrounded you?

11 A. They surrounded me 'bout somewhere up in here, and I - - -

12 Q. About the middle part of the parking lot?

13 A. About the middle part.

14 Q. Now, as you were surrounded, tell me what position the
15 three individuals were in, to the best of your recollection.

16 A. Okay, I was like facing Oglethorpe, I was facing this way.
17 Or so to speak like facing that way. The guy in the yellow
18 T-shirt was right in front of me. Right, the guy in the
19 white T-shirt was right here on the side of me, sort of
20 back, but he was right there about an arm and a half dis-
21 tance. The other guy was further back on this side. I
22 still couldn't get no kind of - - all I saw - - I just saw
23 an image back there, so to speak.

24 Q. So that's all you know is an image of a black male?

25 A. Yeah, just an image back there.

1 Q. Okay, tell me about the guy with the white shirt, was any-
2 thing written on that T-shirt, or was it a plain T-shirt
3 like you have on here in court?

4 A. If I can recall it was a printed T-shirt.

5 Q. What was printed on it, do you remember?

6 A. I'm not sure.

7 Q. Was it large letters, or a picture, or do you have any
8 recollection on anything being on the T-shirt?

9 A. I'm not sure.

10 Q. You're not sure, okay. And you don't know what kind of
11 pants he had on?

12 A. I think he had on some black pants.

13 Q. Black pants. I believe you said that one of the two had on
14 a white, I believe you said that it could have been a white
15 hat, and that was the fellow - - -

16 A. With a white T-shirt.

17 Q. With a white T-shirt, had on a light hat and you said it
18 was probably a white cap.

19 A. Possibly a white cap.

20 Q. Could you describe what kind of cap that was, was it a
21 baseball cap, or what type of cap?

22 A. Sort of like a baseball cap.

23 Q. Did it have a brim like a baseball cap?

24 A. Had a bill on it.

25 Q. A bill?

1 A. Right on the front of it.

2 Q. It was a short bill or a long bill?

3 A. Like a common hat.

4 Q. Now when the fellow came around in front of you, what did
5 he say, that's the individual with the yellow T-shirt, what
6 did he say to you then?

7 A. He just kept talking, you know, just arguing with me, he
8 just was - - we just kept continuously arguing about it. I
9 kept telling him I didn't want to fight him. As we arguing
10 I told him, I said, "I don't want to fight," I say, "I just
11 want you to leave me alone." I was still walking but they
12 - - they didn't stop me 'til I got further up in here. They
13 kept walking right along with me. You know, I kept saying,
14 "I don't want to argue, I don't want to fight," I just kept
15 going.

16 Q. So you were trying, I gather, to get into the Burger King?

17 A. Yes.

18 Q. Is that the direction you - - -

19 A. That was my - - -

20 Q. - - - were going, towards the front door?

21 A. That was what I was trying to do.

22 Q. Okay, now, do you recall anybody else in that parking lot
23 that would have seen that at that time as you continued to
24 walk towards the door? Did you see anybody else who was
25 not involved in this group with you?

1 A. Well, I'm not sure if the van was up there at the time of
2 night, but if the van was up there they would have seen it.

3 Q. Now, at what point were you struck?

4 A. I was struck when the guy had stopped - - when they stopped
5 me. When he had - - he just stopped, you know, and I
6 couldn't move no more 'cause he had stopped me, he was
7 right in my face. And when he stopped in my face he was
8 sort of like - - like somebody jump at you, fake at you,
9 something like that. That's when I focused my whole atten-
10 tion on him.

11 Q. And that's the person with the yellow T-shirt?

12 A. Yeah, he was right in front of me.

13 Q. And did you see who hit you?

14 A. It was the guy with the white T-shirt.

15 Q. And did you see him swing at you?

16 A. No, I didn't, I just caught the blow.

17 Q. Well, how do you know that he was the one struck you?

18 A. He was right there. My eyes was constantly, you know, going
19 from each one of them, you know, looking out the corner of
20 my eyes.

21 Q. Could it ~~have been~~ have been the third individual that you weren't
22 able to get any description of?

23 A. No, I just took my eyes off him to look at the one in the
24 front when he jumped.

25 Q. When you were struck, did you ever see what you were struck
with?

1 A. No, I didn't see what it was.

2 Q. And after you were struck, then you ran, according to your
3 testimony I believe, over to the window, is that correct?

4 A. Yeah, I tried the door first.

5 Q. And the door was locked?

6 A. I grabbed that door - - -

7 Q. This was double doors and you went straight to the doors?

8 A. Yeah, but I got hit up in here. Like I said, I was walking
9 - - -

10 Q. Put a little mark where you were hit if you don't mind.
11 Just put your initials, "L.Y." and put a circle around that.
12 That's where you were physically struck?

13 A. Right there.

14 Q. And that's right by the four parking spaces right next to
15 the drive-in window?

16 A. Yeah.

17 Q. All right, when you were struck then I gather you immediate-
18 ly bolted for the door for help, is that right?

19 A. Yeah, well I was not real hard, I was practically - - I
20 was dizzy.

21 Q. All right, you were dazed I think you said.

22 A. Yeah.

23 Q. Let me ask you this. At any time from the time that you
24 left the Penny Saver store to the time that you were struck,
25 did you ever see any of these individuals that you've

1 described, including the two individuals sitting on the
2 wall with your wife who got up and left, with any kind of
3 weapon or club or pistol or knife, did you ever see any-
4 thing like that that night?

5 A. I didn't notice anything, me myself, no.

6 Q. And specifically now with regard to the three individuals
7 that you said surrounded you, did you ever see any of them
8 with anything like that?

9 A. No, I didn't - - I didn't see anything like that.

10 Q. So when you got near to the window you could - - I mean the
11 door, when you got to the door the door was locked so you
12 then went to the window, is that right?

13 A. Yes.

14 Q. And at that point you saw the manager that - - you described
15 the man as the manager of the Burger King?

16 A. Yeah, Burger King.

17 Q. And that's Mr. Bishop, is that right?

18 A. I'm not sure, I don't know him.

19 Q. And you asked him to get the police?

20 A. Yeah.

21 Q. And at that point did he ask you what was wrong with you,
22 did he try to talk to you?

23 A. No, just slammed the window in my face.

24 Q. He slammed the window in your face?

25 A. Closed the window.

1 Q. And then how long did you stay there before you heard a
2 shot or shots?

3 A. Well soon as I got there, and I guess he saw my face bleed-
4 ing, he closed the window, and that's when I heard the
5 shot, somewhere during that time.

6 Q. Just a matter of a few seconds after?

7 A. Seconds.

8 Q. What did you do when you heard the shot?

9 A. Well, I just - - I left. I ran best I could around the
10 front of the - - the side of the bus station.

11 Q. You say the front or the side, which way did you go?

12 A. This way, came this way.

13 Q. Oh, you came back around Oglethorpe?

14 A. I came back this way.

15 Q. And tried to - - and went in the front door?

16 A. This door right here. That was locked; I went on 'round.

17 Q. You didn't see anyone fire a shot, did you, you just heard
18 it?

19 A. I didn't see anybody fire anything. I was still dazed off
20 that.

21 Q. Now, to the best of your recollection, how many shots did
22 you hear?

23 A. Best of my knowledge I really didn't - - I know I heard one.

24 Q. Just one?

25 A. I know I heard one.

1 Q. Okay, what did you do when you got inside the bus station?

2 A. I went to the bathroom.

3 Q. And after you got - - then you cleaned yourself up?

4 A. Yeah, put some water on my face.

5 Q. Then you came back out of the back door, is that right?

6 A. Uh-huh.

7 Q. And when you came out of the back door, what did you do?

8 A. Well, I was walking back towards - - side of - - towards
9 Grace House. By the time I got right there in the middle
10 of the street, that's when the police caught me by the arm
11 and took me back 'round in the parking lot.

12 Q. And then you gave the police a statement about this whole
13 transaction that you've just testified about?

14 A. Yes.

15 Q. And they, I gather sometime later that night before you
16 went to the hospital, they took you to the Police Depart-
17 ment and showed you, I believe you said six photographs is
18 your recollection?

19 A. Yes.

20 Q. And you picked out one of the individuals in the photo-
21 graphs which you said was the person in the yellow shirt?

22 A. Yes.

23 Q. And you also saw that individual ~~that same night~~ in the
24 Police Department, didn't you, or was it another day?

25 A. Not that same night.

1 Q. It was another day?

2 A. Yeah, it was another day.

3 Q. Have you seen that individual in court here today?

4 A. Yes.

5 Q. Okay, and you know that's Mr. Coles, don't you now?

6 A. Yeah.

7 Q. Now you said you also looked at a second photo spread?

8 A. Uh-huh.

9 Q. Were you able to pick anybody out of that photo spread that
10 you saw on that night?

11 A. The second time?

12 Q. Yes.

13 A. No, I did not.

14 Q. Did you know any of these individuals before this night?

15 A. No.

16 MR. FALLIGANT: Just a minute, Your Honor. I have no further
17 questions.

18 THE COURT: Anything else of this witness?

19 MR. LAWTON: Yes, sir, thank you, if I may, Your Honor.

20 RE-DIRECT EXAMINATION OF LARRY YOUNG BY MR. LAWTON:

21 Q. Mr. Young, you indicated in response to questions, that you
22 had been drinking beer for some time that evening, is that
23 right?

24 A. Uh-huh, I was.

25 Q. And you had drunk, I can't remember the figures, seven or

1 eight beers maybe?

2 A. Yeah.

3 Q. Do you remember what time that day you began drinking?

4 A. When I began it was about 7:30, and I didn't drink them
5 straight.

6 Q. So you'd been drinking more or less casually all the way
7 from 7:30?

8 A. Yeah, off and on.

9 Q. Okay, the Burger King is in Chatham County, isn't it?

10 A. Yeah.

11 Q. Seems like a silly question but I've got to ask it. There
12 was some confusion, or at least I may have gotten a little
13 confused. In response to Mr. Falligant's questions you
14 indicated that the person you had the confrontation with
15 was the same person who had started ragging you about the
16 beer down at the Time Saver, right?

17 A. (Nods head affirmatively) Yeah.

18 Q. Okay, but when you say confrontation, do you mean the con-
19 tinuing argument or do you mean being hit on the head?

20 A. I mean the whole thing, the whole ordeal.

21 Q. So when you say the person you had the confrontation with
22 is the same person said give you a beer, you're talking
23 about the arguer?

24 A. Yeah.

25 Q. You - - -

1 A. Same one I had the argument with.

2 Q. You were asked whether or not anyone else was around when
3 the confrontation occurred up here, right?

4 A. Uh-huh.

5 Q. And you said no, but do you recall whether or not Retta was
6 in the parking lot or anywhere near, or do you know where
7 she was?

8 A. Retta she - - Retta ran to the bus station, to the doors.
9 I don't know whether she ran up - - -

10 Q. Do you know whether she was still there when you got hit or
11 not?

12 A. Oh, once I got hit I'm not - - I'm not sure where everybody
13 went at.

14 Q. Okay, and the place where you finally wound up when you got
15 hit was at the place marked on that diagram with an "L.Y."
16 and a circle around it?

17 A. Where I finally wound up?

18 Q. Yes, I'm sorry, where you wound up when you got hit?

19 A. When I wound up getting hit I was right there.

20 Q. Okay, and that's sort of right in front of and beside the
21 raised pavement that marks the - - makes the drive-through
22 cut, right?

23 A. Big slab of concrete.

24 Q. Yes, there you go. Now you said that when you went up to
25 the window of the Burger Kind the manager was there, but

1 you don't know what that guy's job was with the Burger King,
2 do you?

3 A. No, but I - - he had on a tie so I figured he was the
4 manager.

5 Q. The guy that was at the window, right?

6 A. (Nods head affirmatively)

7 Q. And I think you indicated that you never had heard a shot
8 by the time that you ran up near these doors, is that right?

9 A. No.

10 Q. You hadn't heard a shot yet?

11 A. I hadn't heard a shot until I got over there by the - - -

12 Q. I got you, by the van?

13 A. - - - van and the drive-in.

14 Q. And when you did hear the shot I think you indicated that
15 you ran from that spot immediately, right - - -

16 A. Yeah, I ran.

17 Q. - - - and you ran up towards Oglethorpe and around the
18 building?

19 A. Yes.

20 Q. Okay, and about the photo spread you said that you were
21 shown some pictures, you said maybe six. Is that right,
22 could it have been five?

23 A. (No response)

24 Q. Are you sure it was six pictures or do you - - you don't
25 know for sure?

1 A. It might have been five, but I remember - - far as I can
2 remember it was six.

3 MR. LAWTON: I don't have anything else.

4 THE COURT: All right, thank you, sir. Mr. Wilcher - - -

5 MR. LAWTON: I will call Miss Murray. May I speak with the
6 deputy, Your Honor?

7 THE COURT: Yes. I omitted to ask you at the outset of this
8 when we sequestered the witnesses, did you want to keep
9 Detective Ramsey with you. He was the principle investi-
10 gating officer, as I recall.

11 MR. FALLIGANT: I have no objection to that.

12 MR. LAWTON: I thought you had already ruled on that, Your
13 Honor. I would like to if I may.

14 THE COURT: No, that was an oversight on my part.

15 MR. FALLIGANT: I think he has the right.

16 MR. LAWTON: Do you have any objection?

17 MR. FALLIGAN: I have no objection.

18 THE COURT: All right.

19 THE CLERK: Ma'am, would you raise your right hand?

20 WITNESS WAS DULY SWORN AND TESTIFIED AS FOLLOWS:

21 THE COURT: Okay, Mr. Lawton.

22 DIRECT EXAMINATION OF HARRIETT MURRAY BY MR. LAWTON:

23 Q. Mrs. Murray, I'll ask you to state your name, please.

24 A. Harriett Murray.

25 Q. And how old are you, Miss Murray.

1 A. 23.

2 Q. Okay, speak up loud enough so those microphones over there
3 can pick you up. They're the ones that go to the Court
4 Reporter's machine.

5 A. You want me to say it again?

6 Q. No, that's all right. Do you recall where you were on the
7 evening - - I'm sorry, well, on the evening of Friday and
8 Saturday, shortly after midnight on Saturday, August 19th?

9 A. Me and Larry was sitting on the wall in front of Burger
10 King.

11 Q. Now that would be Larry Young?

12 A. Yes.

13 Q. And you were sitting on the wall that runs down the edge of
14 the Burger King parking lot?

15 A. Yes.

16 Q. The wall that runs along Fahm Street?

17 A. Yes.

18 Q. At the corner of Oglethorpe, is that right?

19 A. Right.

20 Q. Okay, what were you all doing out there?

21 A. We were sitting down talking and we drank one beer, really
22 only one like a half a can for each person.

23 Q. And does that mean you ran out when you finished that one?

24 A. Yeah we ran out, it was gone.

25 Q. What happened then?

1 A. Larry went back down to the store to get some more.

2 Q. Did he come back?

3 A. Yes.

4 Q. Did you notice anything when he came back?

5 A. There was a guy walking with him that was fussing with him.

6 Q. Okay, how did he come back? Did he come back on Oglethorpe
7 or by some other route?

8 A. From Oglethorpe.

9 Q. Was he walking up the sidewalk?

10 A. Yes.

11 Q. And there was a guy behind him fussing at him?

12 A. Yes.

13 Q. Now where were you sitting on the wall when you saw him
14 returning?

15 A. I was by the first tree.

16 Q. By the first tree closest to Oglethorpe?

17 A. Oglethorpe.

18 Q. Was there anybody else sitting with you on the wall?

19 A. There was two other guys.

20 Q. Did you know them?

21 A. No, they got off the bus.

22 Q. Were they sitting some feet down from you on the wall?

23 A. They was about, I'd say it was about five.

24 Q. Okay, did you see anybody else besides the guy who was
25 coming along behind Larry, did you see anybody else

1 approaching at the same time?

2 A. There was a guy coming 'round by the thing - - drive-through window
3 and a second one came up behind him a little later on.

4 Q. And when you saw all of them approaching what did the guys
5 who you were with do?

6 A. They ran 'cause the guy said something about having a gun,
7 they start running.

8 Q. And what did you do?

9 A. I sat there for a minute and the guy told Larry - - 'cause
10 Larry was telling them he wasn't going to fight them. He
11 started to walk away from them. And the guy told him,
12 "Don't walk away from me." Said, "You don't know me, I'll
13 shoot you." And he started digging down his pants. That's
14 when the guys ran off down there.

15 Q. And what did you do?

16 A. I waited there for a minute, then I went on up to the doors,
17 the double doors at Burger King. I was telling them to
18 call the police.

19 Q. Were you actually talking to somebody there at the double
20 doors, or was that just your purpose in going there?

21 A. I wasn't talking to nobody, I was just trying to get some-
22 body to open the door.

23 Q. So nobody came and opened the door, right?

24 A. No.

25 Q. The doors were locked?

1 A. Yeah.

2 Q. Okay, what, if anything, did you see Larry do from that
3 point?

4 A. Well, Larry walked on up close by the drive through window.
5 And one guy was on his right side, another one was on the
6 left.

7 Q. Before you get into that, when you say walked up by the
8 drive through window do you mean that big slab of concrete
9 that makes the drive through, or do you mean the window
10 itself?

11 A. Right on the slab where they got the little curb at.

12 Q. What happened then?

13 A. And one of the guys, one got on this side and the other one
14 on this side, and the guy that was on this side grabbed
15 Larry's arm.

16 Q. When you say on this side you mean - - -

17 A. On the left side. He grabbed Larry arm. And when Larry
18 turned his head the guy on the right side swung and hit
19 him.

20 Q. Do you remember anything about the guy who was standing to
21 the left of Larry?

22 A. He had on a yellow shirt.

23 Q. Would it be fair to say that he was behind him to the left,
24 or in front of him on the left sort of?

25 A. Right behind him at an angle.

1 Q. And you said he had on a yellow shirt?

2 A. Yeah.

3 Q. Do you remember anything else about the way he was - - -

4 A. I think he had on dark pants, I'm not sure.

5 Q. How about the guy who was on his right side, did you notice
6 anything about him?

7 A. He had on a white shirt, and I think it either was a white
8 or blue baseball cap, something like a baseball cap.

9 Q. Are you sure it was a baseball cap, or you're saying that
10 it had a bill on it, or do you know?

11 A. Yeah, it had a bill on it.

12 Q. And it was either white or blue, it take it was a light
13 color anyway, is that right?

14 A. Yeah.

15 Q. How about the third guy, where was he standing?

16 A. He stands further back, you know, where the - - I think
17 it's the second parking space. He was standing like back
18 from it, he didn't get too close.

19 Q. Would that put him behind all the rest of them?

20 A. Yes.

21 Q. At what sort of distance, how long would you say?

22 A. About five or six feet.

23 Q. Did that third guy ever do anything aggressive or hostile
24 towards Larry?

25 A. No, he was just standing there.

1 Q. Okay, so now you've got the yellow shirt beside him on the
2 left and the white shirt beside him on the right, and the
3 third guy behind him a ways. And what happened then?

4 A. Well, after they hit Larry, Larry ran to the window.

5 Q. Who hit him?

6 A. The guy in the white shirt.

7 Q. Did you see him do that?

8 A. Yeah.

9 Q. Did you see whether he hit him with anything or not?

10 A. Well, he had a gun in his hand when he hit Larry.

11 Q. Do you remember what the gun looked like?

12 A. It had a brown handle on it with a silver looking streak.
13 It had a black barrel.

14 THE COURT: A black what?

15 A. Black, you know the barrel part.

16 THE COURT: Oh yes, I'm sorry.

17 Q. Was it just the barrel that was black or was it the whole
18 shooting part, the trigger and the cylinder and all that?

19 A. The whole part down from the handle.

20 Q. Okay, so you said you saw the white shirted guy hit Larry
21 on the head in the face with the gun, is that right?

22 A. Yes.

23 Q. Did you see - - where were you standing when you saw that?

24 A. To the double doors.

25 Q. You were still at the doors?

1 A. Yes.

2 Q. And how far away would you say the doors are from the
3 turn-around?

4 A. I'd say about ten, maybe ten.

5 Q. Okay, did you see what Larry did then?

6 A. Larry ran by the window and he started telling the guys
7 inside Burger King, the manager, to call the police.

8 Q. Okay, how about the other three, did you see what they did
9 when they hit him?

10 A. Well, they stand there for a minute and when the police
11 came running around they split up. I never know where the
12 little short guy that was standing back went.

13 Q. You didn't see him leave?

14 A. (Shakes head negatively)

15 Q. How about, okay, so you say they stood there for a minute?

16 A. Yeah.

17 Q. And then the police officer came around, is that right?

18 A. And they started running.

19 Q. And did the police - - where did the police officer come
20 from?

21 A. The part back where the busses park, he ran from there.

22 Q. Did you notice any vehicle in the drive-through at the
23 Burger King?

24 A. There was a van.

25 Q. Was it there at the same time that Larry ran up to the

1 window?

2 A. Yes.

3 Q. Did the officer - - he must have come from behind the van
4 then, is that right?

5 A. Yeah, he ran behind and ran across to the little drive-through
6 part there up to the window.

7 Q. Okay, and when he came out, what if anything did he say or
8 do?

9 A. He told them to hold it, 'cause he took his night stick out.

10 Q. He told them what?

11 A. To hold it.

12 Q. Hold it?

13 A. Uh-huh.

14 Q. And took his night stick out?

15 A. Yeah.

16 Q. And by this time I think you said the third guy had already
17 disappeared.

18 A. Yes.

19 Q. And the white shirt and the yellow shirt took off running,
20 is that right, when he came out?

21 A. Right.

22 Q. Okay, when he said hold it, what did they do? .

23 A. Well, the guy in the yellow shirt he slowed down, and the
24 guy in the white shirt he slowed down and then he stopped.
25 And after the officer kind of like passed the guy in the

1 yellow shirt he went running on. And the guy in the white
2 shirt stopped. He waited 'til the police got just about
3 five feet.

4 Q. Okay, when you said the guy in the yellow shirt stopped and
5 the police officer ran behind him, you said he took off, or
6 words to that effect. Do you mean the guy in the yellow
7 shirt?

8 A. Yes, the yellow shirt, after the police like slowed down by
9 him and he saw that the police was still going behind the
10 guy in the white shirt, he ran by the bank drive-through
11 window.

12 Q. When you say he saw the police was going behind the guy in
13 the white shirt, do you mean behind him or ~~after~~ him?

14 A. After him.

15 Q. So then the yellow shirt when he saw the police officer
16 wasn't after him - - -

17 A. He ran through by the bank.

18 Q. - - - ran to the bank, okay. Then what did you see happen?

19 A. Well, he stopped and he waited until the police got about
20 five or six feet away from him, and he turned with the gun.

21 Q. He is who?

22 A. The guy in the white shirt. And the first bullet it didn't
23 go off, and that's when the officer was going for his gun.

24 Q. Okay, who fired the first bullet that ~~didn't~~ go off?

25 A. Guy in the white shirt.

1 Q. And then what?

2 A. Then that's when he was going for his gun.

3 Q. He being?

4 A. Police.

5 Q. Okay.

6 A. And he never had a chance to get to his gun 'cause the guy
7 in the white shirt fired the gun again. He got him in his
8 upper part of the face, some place in the face, and he went
9 down. The guy in the white shirt took two steps towards
10 the police officer down and shot him about - - either was
11 two or three more times.

12 Q. Okay, did the - - was there anything - - did the guy in the
13 white shirt, when he fired at the officer on the ground,
14 did he do or say anything that attracted your attention?

15 A. He ain't said nothing but he had a little smirky smile on
16 his face.

17 Q. What was the light like out there, was it a well lit park-
18 ing lot, or dim or - - -

19 A. It was giving off like a - - almost like a blue, you know,
20 light blue effect.

21 Q. Do you have any doubt at all about your distinguishing
22 between the yellow shirt and the white shirt? .

23 A. Well, at the point when the officer got shot, the guy was in a
24 white shirt that shot the police.

25 Q. And that was the same guy that hit Larry, is that correct?

1 A. Uh-huh.

2 Q. You don't have any doubt the color of that shirt, that was
3 a white T-shirt and not a yellow, is that what you're say-
4 ing?

5 A. That was a white.

6 Q. Did the police shortly after that show you a photo - - well
7 let me ask you this. When the police officer was shot,
8 what did you do?

9 A. Well, when he was down and after the guy ran on down
10 Oglethorpe, I went 'round the corner by the other set of
11 doors at Burger King.

12 Q. This would be the white shirt, after shooting runs down
13 Oglethorpe, right?

14 A. Yes.

15 Q. And then you went around to the front doors?

16 A. Yes, by the double doors and I called Larry and told him to
17 come on. We went in Burger King in the bus station part.
18 He went in the bathroom and tried to wipe the blood off his
19 face.

20 Q. And did you look in on him while he was trying to clean up?

21 A. No, it was an officer inside Burger King and he was trying
22 to get everybody out of Burger King, and I asked him to go
23 in the bathroom and check on Larry.

24 Q. Later on did the police have occasion to show you a series
25 of photographs?

1 A. Yeah.

2 Q. And when was that, do you recall?

3 A. I think it was that same night, it was that night or the
4 next day. No, that was, I think it was a week later after
5 -- okay, the first night they showed me a bunch of them
6 but I couldn't identify anybody in it the night when it happened.

7 Q. Did they subsequently show you a photo spread from which
8 you could identify somebody?

9 A. Yeah.

10 Q. Do you remember how many pictures were in there?

11 A. It was five.

12 Q. Did the people in them look more or less alike, that is to
13 say, were they all black males?

14 A. Yeah, all of them was black males.

15 Q. Did they look about the same age?

16 A. Maybe a couple of them there look a little older.

17 Q. There weren't any old men in there were there?

18 A. Uh-uh -- you talking about the first?

19 Q. No, I'm talking about the second.

20 A. Oh, the second?

21 Q. Yes, did they look more or less similar?

22 A. Yeah.

23 Q. Same height and build and race and hair style, stuff like
24 that?

25 A. Right.

1 Q. Did anyone tell you who to pick out of that photo spread,
2 or suggest to you which one you ought to pick out?

3 A. No.

4 Q. Did you pick out a photo?

5 A. Yes.

6 Q. And the person you picked out, what did that person do, why
7 were you picking his picture out?

8 A. 'Cause that's the person I saw shoot the police officer.

9 Q. That's the person you saw shoot the police officer?

10 A. He had on a white shirt.

11 Q. Not in the photograph though?

12 A. No, it was five pictures and - - his picture was five.

13 Q. And he's the one who was wearing the white shirt?

14 A. Uh-uh.

15 Q. And he's the one who shot the police officer?

16 A. Yes.

17 Q. And he's the one who hit Larry, is that right?

18 A. Yes.

19 MR. LAWTON: That's all I have, thank you.

20 CROSS EXAMINATION OF HARRIETT MURRAY BY MR. FALLIGANT:

21 Q. Miss Murray, your name is Harriett. Do they call you Retta?

22 A. Uh-huh.

23 Q. Is that what Larry calls you?

24 A. Yes.

25 THE COURT: All right, please speak up, ma'am. It's necessary

1 for me to hear you, it's necessary for this gentleman to
2 hear you.

3 MR. FALLIGANT: Yes, speak up if you will.

4 Q. What time did you meet Larry that evening?

5 A. Well, Larry was over to the Grace House earlier 'cause
6 that's where I stay sometime, and it was about, I'd say
7 about 12:00 o'clock before we met up out there to - - on
8 the wall.

9 Q. Are you a resident of Savannah?

10 A. No.

11 Q. You're just pass - - where is your home?

12 A. South Carolina.

13 Q. Where in South Carolina?

14 A. Hilton Head.

15 Q. You have family there?

16 A. Uh-huh.

17 Q. Who is your closest relative in South Carolina?

18 A. My mother.

19 Q. What is her name?

20 A. Pearlle Mae.

21 Q. Pearlle Mae what?

22 A. Gadson.

23 Q. Gadston?

24 A. Gadson.

25 Q. How you spell it?

1 A. G-a-d-s-o-n.

2 Q. Where does she live at Hilton Head?

3 A. 28 Gum Tree Road.

4 Q. Do you stay with her sometime?

5 A. Yeah, when I go home on the weekends.

6 Q. Are you working here in Savannah?

7 A. Yes.

8 Q. On this particular evening, this would be Friday I guess,
9 were you working that day?

10 A. No.

11 Q. What had you done up until the time that you met Larry?

12 A. Well, I was planning on catching a ride and go home, but
13 the ride left me, and Larry was trying to help me get a
14 ride home.

15 Q. And so you met him about what time?

16 A. It was about 12:00.

17 Q. 12:00, had you had anything to drink before you met Larry?

18 A. No.

19 Q. When you met Larry, how many beers did he have with him at
20 that time?

21 A. One.

22 Q. Did he come over to Grace House and get you?

23 A. No, I was out there waiting for the guy to come back through
24 which he never did while I was catchin'.

25 Q. When you say out there waiting, where was that?

1 A. On the wall.

2 Q. On the wall, okay. I'm going to show you what is a little
3 drawing here that we made up of a parking lot of Burger
4 King. Let's see if we can get this oriented for you. This
5 is Oglethorpe, this is Fahm Street, this is Youman, so you
6 would recognize that as the back gate to Grace House, right?

7 A. Right.

8 Q. Right across the street. And there's a small wall here
9 which divides the parking lot from the sidewalk of Burger
10 king from Fahm Street. All right, where were you sitting
11 basically, when Larry came up?

12 A. Okay, what it is, they got some trees.

13 Q. Yes.

14 A. And I was sitting like right by this tree.

15 Q. All right, this was the first little tree. I think the big
16 tree on the corner has since been cut down, but there's a
17 smaller tree - - -

18 A. Big tree, 'cause the big tree sits right here.

19 Q. And you were sitting by the big tree - - -

20 A. Yeah.

21 Q. - - - where Larry has "L.Y." initials there, right?

22 A. Uh-huh.

23 Q. So you all finished a beer and I think you said that Larry
24 said, "I'm going to go get some more beer, you wait here."
25 Were any other people on that wall before Larry left?

1 A. No.

2 Q. Just the two of you?

3 A. (Nods head affirmatively)

4 Q. So he went down to the Penny Saver to get some beer and you
5 sat there on the wall, is that right?

6 A. Right.

7 Q. So when he came back you said that you saw somebody walking
8 along with Larry, arguing with him.

9 A. Right.

10 Q. How far behind Larry was that individual when you first saw
11 him?

12 A. He was like right up on Larry, getting ready to come up on
13 Larry's side.

14 Q. All right, describe that individual and how he looked, and
15 what he had on, as best you can.

16 A. I can't really remember, but I think it was the light - - I
17 thought this one was the white shirt.

18 Q. You thought this individual behind Larry was the white
19 shirt?

20 A. Yeah.

21 Q. Now, I think you said you also saw somebody cut across
22 through the drive-in window there of the Trust Company Bank,
23 is that right?

24 A. Uh-huh.

25 Q. Now describe that individual as you first saw him.

1 A. I couldn't really describe him because when he came - - was
2 coming up I already had started walking up ahead.

3 Q. Now, by that time did two other people come up and sit on
4 the wall, you remember them?

5 A. Before Larry left nobody was sitting on the wall but me.
6 After Larry went down to the store two guys who got off the
7 bus came and sit down by me.

8 Q. All right, and when Larry crossed the street you heard this
9 individual which you said you thought had a white shirt on
10 at the time say, "Don't leave me," or, "You ~~don't mess~~ - -
11 - "

12 A. "Don't walk away from me."

13 Q. "Don't walk away from me, I'll shoot you," is that - - that
14 was what you heard?

15 A. He said, first he said, "Don't walk away from me. You
16 don't know me, I'll shoot you," that's what he said.

17 Q. By that time you had gotten up and started across the park-
18 in lot?

19 A. After he said that I started going to the door so I could
20 - - -

21 Q. Was that because you were afraid?

22 A. Well, when he started talking about a gun, and early that
23 night I saw those police was in there. It's time to go to,
24 you know, try to find the police.

25 Q. But you did not see a gun at that point?

1 A. No, not at that point but he was like digging down in the
2 front of his pants.

3 Q. You did say he was digging in the front of his pants?

4 A. Yeah.

5 Q. Did you see anything in the front of his pants?

6 A. No.

7 Q. At that point where was this individual who had come to
8 the drive-in window of the bank?

9 A. By the time they got - - well when they got to the middle
10 of the road I started walking. And by the time I got to
11 the door Larry and the guy - - okay, this guy already came
12 across the road and they was up by the little curb, by the
13 drive-through window.

14 Q. All right, that was right here?

15 A. Yeah.

16 Q. Okay, you recognize this as the curb and this as the drive-
17 through window?

18 A. Right.

19 Q. Where were you at that point?

20 A. I was at the double doors.

21 Q. All right, that would be right here, right at the side doors
22 - - actually the front doors of Burger King?

23 A. Yes.

24 Q. Did you stand at the double doors or you go inside of them?

25 A. Stand there 'cause they had it locked.

1 Q. They had it locked so you couldn't get in. So then you
2 said you saw two individuals surround Larry?

3 A. Yeah.

4 Q. One on his left and one on his right?

5 A. Uh-huh.

6 Q. One you described as having a white T-shirt and one a
7 yellow T-shirt, right?

8 A. Right.

9 Q. Let's talk about the person in the yellow T-shirt. You
10 said he was on the left side of Larry?

11 A. Right.

12 Q. You saw him grab his arm?

13 A. Uh-huh.

14 Q. What kind of pants did he have on?

15 A. I can't remember what kind of pants he had on.

16 Q. Do you recall how tall he was?

17 A. No, but he was - - his face was way fatter than the other
18 guy's was, one in the white shirt.

19 Q. Was he - - he was a black male?

20 A. Yeah.

21 Q. Was he lighter skin or darker skin than Larry?

22 A. He was lighter than Larry.

23 Q. Was he lighter skin or darker skin than the individual with
24 the white shirt?

25 A. He was lighter.

1 Q. Lighter skin?

2 A. Yeah.

3 Q. And you don't recall what color pants he had on, just the
4 yellow shirt?

5 A. (Nods head affirmatively)

6 Q. Was there any writing on the shirt?

7 A. I think it was.

8 Q. You recall what it was?

9 A. No.

10 Q. Did he have a hat on?

11 A. The yellow shirt?

12 Q. Yes.

13 A. No.

14 Q. Was he as tall as Larry or shorter?

15 A. He was a little bit taller than Larry.

16 Q. A little bit taller than Larry. Was he heavier than Larry,
17 or thin?

18 A. Little heavier.

19 Q. Little heavier, okay. Now, let's talk about the person in
20 the white shirt for a minute. Was he as tall as Larry or
21 shorter than Larry

22 A. He was taller than Larry.

23 Q. Taller than Larry?

24 A. Uh-huh.

25 Q. Was he heavier than Larry?

1 A. No, not really.

2 Q. Did he appear to be tall and thin?

3 A. Yeah.

4 Q. Slender build. Tell me about his white T-shirt, was it a
5 plain white T-shirt?

6 A. Yeah, just like you put on in the winter time underneath
7 your clothes.

8 Q. All right, did it have any sort of writing or logo or ad-
9 vertising on it?

10 A. I can't remember if it had any writing on it.

11 Q. Which one had the hat on?

12 A. The guy in the white shirt.

13 Q. You said that it was either a white or blue baseball hat.

14 A. Yeah, it was a light color.

15 Q. Was it a plain color, in other words, did it have a pattern
16 on it?

17 A. I don't - - I don't remember seeing if it had a pattern or
18 not. It might have had, might have been, but I don't know.

19 Q. And the fellow with the yellow shirt grabbed Larry by the
20 left arm, you said the fellow with the white shirt struck
21 Larry in the face.

22 A. Yeah, when he turned his head.

23 Q. Did you see what he struck him with?

24 A. The gun.

25 Q. Okay, I think you did describe the gun as having a brown

1 handle and a silver band on it, and about - - -

2 A. No, the barrel was black.

3 Q. The barrel was black. All right now, in what manner did he
4 hold this gun? You said you saw the brown handle, did he
5 hold it by the handle or did he hold it by the barrel?

6 A. He had it in his hand like this.

7 Q. All right, you're holding it like this?

8 A. Yes.

9 Q. All right, so you're holding the middle part of the gun?

10 A. His fingers was around it.

11 Q. Do you know how to shoot a pistol?

12 A. Not really.

13 Q. Well, you've seen people hold a pistol and shoot it?

14 A. Yeah.

15 Q. Did he hold it in a manner that he was going to shoot it or
16 did he have his hand clasped around it?

17 A. Had his hand clasped around it.

18 Q. And then he swung up and that's how you could see the
19 handle sticking out of the palm of his hand, is that
20 correct?

21 A. Right.

22 Q. And he struck Larry on the right side of the face?

23 A. Right.

24 Q. Now, did you see where he produced the pistol, was it in
25 his pants or where was it?

1 A. It was in the front of his pants.

2 Q. Did you see the pistol before that?

3 A. No.

4 Q. And at that point I believe you said that Larry ran around
5 to the drive-in window, right?

6 A. Right.

7 Q. You saw the van parked there, didn't you?

8 A. Yes.

9 Q. And you were still standing by the door?

10 A. Right.

11 Q. Then you said that the two individuals here continued to
12 stand there for a few moments?

13 A. Yeah.

14 Q. Where was the third individual, did you see a third indi-
15 vidual?

16 A. It was a third one standing there before Larry got hit, and
17 after that I ain't never seen him again. I think he ran
18 off but I didn't - - -

19 Q. Did he appear to be with the fellow with the white shirt
20 and yellow shirt?

21 A. Yeah.

22 Q. Describe him as best you can.

23 A. Really I couldn't, I really can't because I was paying more
24 attention to the two guys that was on Larry.

25 Q. And he stood back from the other two?

1 A. Yeah.

2 Q. Now when Larry reached the window you heard him ask the
3 manager to call the police?

4 A. Yeah.

5 Q. And you stood here, and at that point I think you said that
6 you saw a police officer come from the back of the bus
7 station?

8 A. Yeah.

9 Q. Around the drive-in and across the parking lot?

10 A. Right.

11 Q. These two individuals you said then began to go in the
12 direction of the - - -

13 A. They split up.

14 Q. They split up. Just show us if you will how they split up.

15 A. Well the guy in the yellow shirt went behind - - in the
16 bank drive through^{er}.

17 Q. All right, so he went from the drive-in - - -

18 A. He didn't get close to it until after the police came
19 around. The police told him to hold it, and once the
20 police was like - - almost like past him, he ran on. And
21 the guy in the white was over this side - - -

22 Q. Let's take it a little bit - - a step at the time. Both of
23 them began to go off. Were they walking or running?

24 A. They started running.

25 Q. Did they see the policeman as he came from behind the bus

1 station?

2 A. Yeah.

3 Q. And they both went in different directions, the one with
4 the yellow shirt walked towards the bank drive-in window?

5 A. When the police came round, the police told him, "Hold it," they
6 was standing up here. And both of them slowed down. The guy in
7 the white shirt stopped. After the police like passed the
8 guy in the yellow shirt he went on and he ran through the
9 bank drive-in.

10 Q. Where did they stop when the - - -

11 A. Well the guy in yellow was somewhere up in here, and the
12 other guy - - -

13 Q. All right let's look at this. If there are eight spaces,
14 parking spaces here, you indicated somewhere up in here.
15 This would be I think the third parking space. I know you
16 don't have to be exact, but that's the best to your re-
17 collection, somewhere in that area?

18 A. Yes.

19 Q. And the yellow shirt stopped. The policeman continued
20 past him towards the fellow in the white shirt?

21 A. Yeah, well he wasn't all the way past him.

22 Q. He wasn't - - -

23 A. At an angle.

24 Q. At an angle?

25 A. And after this guy stopped the officer was going toward him

1 and the guy in the yellow shirt ran on 'round the bank
2 through the drive-in.

3 Q. So he took off. Did you ever see him stop or he kept on
4 going?

5 A. He kept on going.

6 Q. So the fellow in the white shirt stopped here at the corner
7 near the big tree where you were sitting earlier?

8 A. Right.

9 Q. And the policeman walked in his direction.

10 A. Yeah.

11 Q. All right, now, as the policeman walked in his direction,
12 tell us what happened as he approached him.

13 A. Well the police had his night stick out and the guys waited
14 and he like had his head turned where he could see the
15 police walking off. Once the police got about five feet
16 from him he turned and he pulled the trigger. First bullet
17 didn't go off.

18 Q. Now, the person in the white shirt, did he have his back to
19 the policeman like I have my back to you here?

20 A. Yes, but his head was turned to the side.

21 Q. He turned over his shoulder looking in that direction, and
22 the police officer had completely removed his night stick?

23 A. Yeah.

24 Q. Did he have it in his hand?

25 A. Yeah.

1 Q. What manner did he have it in his hand?

2 A. Well, he had it like up.

3 Q. Like he was going to strike someone?

4 A. Well, he was running - - -

5 Q. All right.

6 A. - - - up there, I guess that's why he hold it up like this.
7 He had it like kind of straight up.

8 Q. Kind of straight up, all right, and as he got close to the
9 person, the person turned you said at that point and fired?

10 A. Right.

11 Q. Now, how far away was the policeman from the person in the
12 white shirt when you heard what you said was a misfire, I
13 believe.

14 A. He was about five or six feet away.

15 Q. Five or six feet away, and you were still by the door, you
16 haven't moved?

17 A. I ain't moved.

18 Q. All right now, how did you know that he fired?

19 A. I heard him click.

20 Q. You heard him click?

21 A. Yeah.

22 Q. Could you see the pistol when you heard it click?

23 A. No, because he was holding it in this hand, and at that
24 point I was still at the door and underneath the tree it's
25 kind of dark..

1 Q. Underneath the tree is dark, and had the policeman come at
2 that point between you and your line of sight with the
3 individual in the white shirt?

4 A. No.

5 Q. Was the policeman off at an angle?

6 A. He was over to the side.

7 Q. Over to the - - over to your right, is that correct. As you
8 look from the door back to the tree, the policeman was a
9 little bit to the right?

10 A. Right.

11 Q. And you said that the person had it in which hand?

12 A. Had it in his right hand.

13 Q. In his right hand, okay, and you could not see the pistol?

14 A. Not really 'cause it was dark color.

15 Q. You just heard a click?

16 A. Yeah.

17 Q. So you assumed that was a pistol?

18 A. Uh-huh.

19 Q. Then after you heard the click, what else did you hear?

20 A. Well I didn't, you know, hear anything else after the
21 bullet, you know, didn't fire, the police went for his revolver.
22 And he shot the police in his - - either was the face or
23 the neck.

24 Q. Now when you heard that gun click the first time you said
25 you could not see the gun, right?

1 A. Right.

2 Q. You don't know which direction the gun was pointed, if
3 pointed at all?

4 A. His hand was up like this. I couldn't see the gun but I
5 could see the position his hand was in.

6 Q. You could see his hand?

7 A. Right.

8 Q. And then the policeman pulled his gun out?

9 A. He didn't have a chance to pull it out.

10 Q. Did he get his holster unsnapped?

11 A. I don't think so.

12 Q. Then you heard a gunshot?

13 A. Right.

14 Q. And what happened when you heard the gunshot?

15 A. Well I went down by the steps and they got some little
16 bushes there but they kind of trimmed up to the bottom.

17 Q. All right, there's a planter right here by the steps, isn't
18 that right?

19 A. Right.

20 Q. The plants are about 18 inches high, isn't that correct?

21 A. Right.

22 Q. So you walked down, there are two steps here and three here?

23 A. Uh-huh.

24 Q. So you walked down on the second level?

25 A. Yes.

1 Q. And you peered over?

2 A. Right.

3 Q. What did you see at that point?

4 A. Well, he took two steps towards the police after the police
5 was down, and shot him two or three more times.

6 Q. Did you hear the policeman say anything from the time that
7 he said stop, or halt I believe you said, to the time that
8 you heard the click?

9 A. No.

10 Q. You never heard any words spoken between any individuals?

11 A. No.

12 Q. And then you said you heard a click, the policeman went for
13 his gun, you heard a gunshot at that point?

14 A. Right.

15 Q. Did you see the fire from the gun?

16 A. No, not really, 'cause after, you know, when I ducked down
17 and looked was when after the first fire I went down the
18 steps. I was looking, you know, by the bushes, they've got
19 two bushes and they got an opening about this wide. And I
20 looked through there and that's when I saw him took two
21 steps towards the police and shot him two or three more
22 times.

23 Q. So the policeman went down. When the police officer fell,
24 which direction was his head in?

25 A. It was this direction.

1 Q. All right now, was his head very close to the wall?

2 A. No, it was a little ways up from the wall.

3 Q. A little ways up from the wall, and the individual in the
4 white shirt walked two or three steps you said, and fired
5 two more shots.

6 A. It was two to three more shots.

7 Q. Could you see him with the pistol in his hand, or did you
8 just hear it?

9 A. That's - - well, I couldn't see the pistol.

10 Q. Okay.

11 A. But it was - - he had the pistol and he was aiming down
12 like this at the officer.

13 Q. Did he crouch down or did he stand upwards?

14 A. He was stand like this and a little smile - - little smirky
15 smile on his face when he did it.

16 Q. How could you see his face if you couldn't see - - -

17 A. Because the light from here was reflected on his face. The
18 pistol was black, the barrel part, and his face isn't as
19 dark as the end of the pistol.

20 Q. So you saw what you thought was a smile?

21 A. Yeah.

22 Q. And after he fired the pistol he turned and went down
23 Oglethorpe Street?

24 A. Right.

25 Q. To your knowledge, was anybody else in that lot other than

1 you over here by the door, the van, and Larry. Well, you
2 said by that time Larry had crouched down, is that correct?

3 A. Yes.

4 Q. Was anybody else in that lot that you remember?

5 A. I can't remember nobody else being there, somebody might
6 have been in there.

7 Q. Have you talked to anybody in Grace House since this has
8 occurred?

9 A. Not really.

10 Q. You know of anybody over there saw it through the gate and
11 was over by that fence that night?

12 A. I think everybody was on the inside 'cause, you know, they
13 lock the doors at 9:30.

14 Q. Now, you were asked to go to the Police Department that
15 night and you went down there, and you looked at how many
16 photographs?

17 A. I think it was about five or six.

18 Q. Five or six, and you weren't able to identify anyone?

19 A. No.

20 Q. Is that correct?

21 A. None of those, none of the ones they showed me.

22 Q. Did you come as close to the person in the yellow shirt as
23 you did to the person in the white shirt?

24 A. Yeah.

25 Q. Did you get as good a look of the person in the yellow

1 shirt's face as you did to the person in the white shirt's
2 face?

3 A. Really I didn't pay too much attention to the guy in the
4 yellow shirt 'cause I was looking at the one in the white
5 shirt mostly.

6 Q. So you weren't able to identify anybody in the first five
7 photographs, but then you went down later on and identified
8 some photographs?

9 A. Right.

10 Q. You said - - how many photographs were shown to you?

11 A. The second time?

12 Q. Yes, ma'am.

13 A. Five.

14 Q. Five, all right now, do you know in what order they were
15 shown to you? Were they handed to you, or were they dis-
16 played in front of you individually or in an album?

17 A. No, they was - - it was stacked up in order, and I went
18 through them.

19 Q. Now, when you went in to look at the photographs, what did
20 they tell you about the photographs before you started to
21 look at them?

22 A. They told me that the coloration, you know, the person
23 might be a little lighter or darker, or either, you know,
24 they could have had hair on their faces and shaved it off.

25 Q. Did either one of the people you saw that night have any

1 hair on their face?

2 A. I can't remember what they had on their face.

3 Q. You do not remember either one having any hair?

4 A. I can't remember if they did or they didn't.

5 Q. Okay, did the police tell you anything else about the
6 pictures before you looked at them?

7 A. There was something else they told me - - said when I
8 picked it up just put it to the side. And I picked up one
9 and I put it to the side on the table.

10 Q. Now, as you looked through the photographs, which photo-
11 graph did you pick out? The first one you looked at?

12 A. No.

13 Q. Which one was it?

14 A. Five.

15 Q. Number five, the last one you saw you picked out?

16 A. Right.

17 Q. And when you set it to the side, did you tell anybody any-
18 thing about that photograph?

19 A. I told - - I can't remember the officer name that was in
20 the room with me, but I told him, said that was the guy
21 that was at the police shooting.

22 Q. All right, were you positive at that point, or you just
23 thought he looked like the person that you saw that night?

24 A. I was positive.

25 Q. And did the police tell you that that was the right

1 individual?

2 A. No.

3 Q. They didn't tell you anything like that?

4 A. Well what he said is, said it was - - they wanted me to put
5 my initials on the photograph.

6 Q. Did you do that?

7 A. Yeah.

8 Q. Mr. Lawton asked you how the people appeared in the photo-
9 graphs, did all these people appear to be of the same age?
10 You said some appeared to be older than others.

11 A. The first set what they showed me that night, some of the
12 guys looked more older, but the second set where I identi-
13 fied the guy, all of them was about the same age. They
14 looked almost the same really.

15 Q. The picture that you picked out, what kind of clothing did
16 the individual have on in the picture?

17 A. I can't remember 'cause once I saw it I got real nervous
18 from just looking at it.

19 MR. FALLIGANT: Just a minute, Your Honor.

20 Q. Did you discuss with Larry anything about the individual
21 or any of the individuals that night before you went down
22 the second time to identify the photographs?

23 A. No.

24 Q. Did you talk with anybody?

25 A. Larry was really, they gave him medication, he was on bed

1 rest the majority of the time.

2 Q. So you and Larry had not talked between the first time that
3 you looked at photographs and the second time that you
4 looked at them?

5 A. Right.

6 Q. You have not talked?

7 A. No, not with Larry. Only thing he asked me if they showed
8 me some photographs.

9 Q. The picture that you picked out, you said you identified as
10 the person you'd seen that night, had you ever seen that
11 individual any other time before that night?

12 A. I think I might have seen him up to the store 'cause they
13 got a little pool room up there, and most of the time I go
14 down there to get me a chicken dinner and some soda some-
15 time.

16 Q. You know any other individuals that resemble that picture
17 that you picked out?

18 A. Not really.

19 Q. Was there anything extremely distinctive about him that
20 night that you -- stood out in your mind?

21 A. His narrow face.

22 Q. His narrow face?

23 A. Yes.

24 Q. What kind of haircut did he have?

25 A. That night I thought it was one of those -- was like a

1 fade-away, only got the top - - -

2 Q. I know my hair faded away a long time ago.

3 A. When they got to the top of the head, just a little bit
4 longer than the sides, and the sides cut real, real short.

5 Q. That's what you thought he had that night?

6 A. Yeah.

7 Q. And we're speaking of the night in question, when the
8 policeman was shot?

9 A. Uh-huh.

10 MR. FALLIGANT: Okay, that's all I have, thank you.

11 THE COURT: Anything else you need to hear?

12 MR. LAWTON: If I may just briefly, Your Honor.

13 RE-DIRECT EXAMINATION OF HARRIETT MURRAY BY MR. LAWTON:

14 Q. Mrs. Murray, you were asked about first seeing these indi-
15 viduals when they were following Larry up here, and the
16 other guy came down around here by the bank. And it's at
17 that point you identified the person up here closest to the
18 bank as perhaps having on a yellow T-shirt I think you said.

19 A. Yeah.

20 Q. And the fellow down here closest to Oglethorpe as having on
21 a white T-shirt, is that right?

22 A. Right.

23 Q. What is the lighting like out here in Fahm Street in this
24 area.

25 A. Well, it gives off like a bluish, you know, almost like a

1 bluish haze.

2 Q. Okay now, these guys are not in the parking lot at this
3 time, are they?

4 A. No.

5 Q. Is the light any different in the parking lot over here
6 and the street on the other?

7 A. It's a little - - it's a little brighter up here around
8 those trees.

9 Q. A little brighter in the parking lot?

10 A. Yeah.

11 Q. Is it possible the lighting conditions out here would
12 account for your distinguishing the colors the way you do?

13 A. No, because, you know, a light color in certain lights look
14 different.

15 Q. Okay, let me ask you this. Do you have any doubt
16 about the color, the difference between the yellow shirt
17 and white shirt and who had them on in the parking lot?

18 A. No.

19 Q. At one point you were asked - - talking now about this is
20 after Larry's been hit and before the police officer's been
21 shot, the two guys had split up and they were running?

22 A. Right.

23 Q. And you had described where the fellow in the yellow shirt
24 was heading over in the direction of the bank leaving the
25 parking lot, and you were asked, and I think you said that

1 when the officer said, "Hold it," he slowed down and began
2 to stop, is that right?

3 A. Right.

4 Q. And then, do I have it right, that he took off again?

5 A. Yeah.

6 Q. When he saw the officer wasn't - - -

7 A. He was going after the guy in the white shirt.

8 Q. - - - wasn't going after him? There you go, and I think
9 you said you never saw the yellow shirt stop. You mean you
10 never saw the yellow shirt stop after he took off?

11 A. Once he got by the bank.

12 Q. That's after the police officer passed him and he figured
13 he was out of the way, and took off?

14 A. Right.

15 Q. Okay, and the night stick, you said the officer was running
16 with the night stick and holding it up in his hand. Was
17 that because of that's the way you run, I mean, because you
18 - - -

19 MR. FALLIGANT: Your Honor, I will object to that.

20 THE COURT: I'll - - wait a minute. I'll sustain your objec-
21 tion. That calls for a conclusion. Everybody runs a
22 little bit differently.

23 Q. He was running, was he not?

24 A. The officer?

25 Q. Yes.

1 MR. FALLIGAN: Two short questions.

2 RE-CROSS EXAMINATION OF HARRIETT MURRAY BY MR. FALLIGANT:

3 Q. At the time that you identified these photographs on the
4 second occasion, one photograph, was there anyone else in
5 the room with you?

6 A. Nobody but the officer.

7 Q. Did you know, or were you aware that anyone else had made
8 an identification of anyone from photographs?

9 A. No.

10 Q. Have you since learned that someone else might have picked
11 some person out?

12 A. No.

13 MR. FALLIGANT: I have no further questions.

14 THE COURT: All right now, gentlemen, let's synchronize our
15 watches and take five minutes. I want to caution you
16 ladies and gentlemen what I said earlier. If you leave
17 you can't come back.

18 THE CLERK: Everyone please rise, take a five minute recess.

19 (COURT RE-CONVENES)

20 THE COURT: Who is your next witness?

21 MR. LAWTON: We'll call Sylvester Coles, Your Honor. May I
22 ask whether the last witness, Miss Murray, can be excused?

23 MR. FALLIGANT: That's fine with me.

24 THE COURT: All right, let's let her leave.

25 MR. LAWTON: Will one of the deputies tell her she can go?

1 A. Yes, he was.

2 Q. Was he holding the night stick in what you would describe
3 as a threatening way, or was he holding it in such a way
4 just as to be careful?

5 MR. FALLIGAN: Again I object, that calls for a conclusion on
6 her part.

7 THE COURT: Well no, now I can see a distinction here. If - -
8 I think she can answer that question whether or not she
9 considered it a belligerent and aggressive fashion, or was
10 he just holding the night stick. Of course a night stick
11 is an offensive weapon by its very nature. I mean, you
12 don't pull it out to swat flies with. Go ahead and answer
13 Mr. Lawton's question.

14 A. When he pulled it out, after he pulled it out it was like
15 in an up position when he was running, 'cause he was hold
16 it like away from his body when he was running.

17 MR. LAWTON: We can clear that up, Your Honor. Thank you,
18 that's good enough.

19 Q. And you did indicate that there was a van in the drive-
20 through, I think you said?

21 A. Yeah.

22 Q. That was at the time that Larry got hit?

23 A. Right.

24 MR. LAWTON: I don't have anything else.

25 THE COURT: Anything further, Mr. Falligan?